

REMARKS

Claims 1-42 are pending in the application. Claims 1-42 have been rejected. Portions of the Specification have also been objected to. Reconsideration and withdrawal of the rejections and objections set forth in the Office Action dated January 21, 2004 and entry of the amendments is respectfully requested.

The Specification has been objected to as requiring an updated cross-reference information and a summary. An amendment has been made to the specification to add the cross-reference information. No new matter has been added by this amendment.

Applicant respectfully traverses the requirement of a summary. The Office Action cites 37 C.F.R. § 1.77(b) as authority for the proposition that a summary is required. 37 C.F.R. § 1.77(b) states that the specification should include sections including a "Brief Summary of the Invention" section. Although permissible, it is not required to include a summary of the invention section in a specification. "A brief summary of the invention . . . should precede the detailed description. Such summary should, when set forth" 37 C.F.R. § 1.73. The "should" and "when set forth" language clearly indicates that the summary of the invention section is optional. In contrast, the Code of Federal Regulations makes it clear which sections of the specification are mandatory. For example, "the specification must include a written description," and "the specification must conclude with a claim." 37 C.F.R. § 1.71, 1.75. The Code of Federal Regulations contain no indication that a summary must be included in each specification. Accordingly, this objection should be withdrawn.

Claims 1-42 are rejected under 35 U.S.C. 103(a) as obvious over Brown Elliott, et al. (Pub. No.: US 2003/0117423) in view of Senda, et al., (Pub. No.: US

2002/0047822 A1). This rejection is respectfully traversed. The claims have been amended to more particularly point out and distinctly claim the present invention, and to correct minor informalities.

Applicant does not concede the propriety of this rejection. Applicant does not believe that the disclosures of Brown Elliott, Senda, or the combination thereof render the claimed invention obvious. Moreover, Applicant does not believe combination of Brown Elliott and Senda is appropriate. Similarly, Applicant does not believe that the disclosures of Brown Elliott and/or Senda anticipate the claimed invention. In fact, Applicant submits that even if the rejection is otherwise proper, the claimed invention is patentably distinct from what is disclosed in Brown Elliott, Senda and the combination thereof.

However, Applicant submits that the rejection over the combination of Brown Elliott and Senda is improper because Brown Elliott is not properly prior art to the present application. Applicant understands Brown Elliott to have a filing date of October 22, 2002. The present application was filed on January 15, 2002. Accordingly, Brown Elliott is not prior art to this application, and cannot form the basis of any rejections of claims. As each claim is rejected based on a combination of Brown Elliott and Senda, Applicant submits that the claim rejections are improper and accordingly should be withdrawn.

To the extent that Applicant has misunderstood some aspect of Brown Elliott, Applicant requests a detailed explanation of the situation in a non-Final Office Action, and a corresponding opportunity to respond to the merits of the rejection.

Deposit Account Authorization and Extension of Time Request

Authorization is hereby given to charge any deficiencies and credit any overages to Deposit Account number 50-2207, including any funds necessitated due to an accompanying check being drawn on an account with insufficient funds. To the extent necessary and not otherwise requested, Applicant requests an Extension of Time to respond to the Office Action, and requests that the fee for such an extension be charged to Deposit Account number 50-2207.

Conclusion

In view of the foregoing, the claims pending in the application comply with the requirements of 35 U.S.C. § 112 and patentably define over the applied art. A Notice of Allowance is, therefore, respectfully requested. If the Examiner has any questions or believes a telephone conference would expedite prosecution of this application, the Examiner is encouraged to call the undersigned at (650) 838-4328.

Respectfully submitted,
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